

Edgar Filing: TRIARC COMPANIES INC - Form SC 13D/A

TRIARC COMPANIES INC  
Form SC 13D/A  
February 03, 2006

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934  
(Amendment No. 10)\*

Encore Capital Group, Inc.  
-----

(Name of Issuer)

Common Stock (\$.01 par value)  
-----

(Title of Class of Securities)

292554 10 2  
-----

(CUSIP Number)

Stuart I. Rosen  
Senior Vice President and Associate General Counsel  
Triarc Companies, Inc.  
280 Park Avenue  
New York, New York 10017

-----  
(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications)

January 23, 2006  
-----

(Date of Event which Requires Filing of this Statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of ss.240.13d-1(e), (f) or (g), check the following box [ ].

Note: Schedules filed in paper format shall include a signed original and five copies of the Schedule, including all exhibits. See ss.240.13d-7 for other parties to whom copies are to be sent.

\* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

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(1) Name of Reporting Person I.R.S. Identification No. of Above Person	Madison West Associates Corp.
-----	
(2) Check the Appropriate Box if a Member of a Group	(a) ----- (b) X
-----	
(3) SEC Use Only	
-----	
(4) Source of Funds	OO
-----	
(5) Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)	[ ]
-----	
(6) Citizenship or Place of Organization	Delaware
-----	
Number of Shares Beneficially Owned by Each Reporting Person With	(7) Sole Voting Power None ----- (8) Shared Voting Power 1,096,800 ----- (9) Sole Dispositive Power None ----- (10) Shared Dispositive Power 1,096,800
-----	
(11) Aggregate Amount Beneficially Owned by Each Reporting Person	1,096,800
-----	
(12) Check Box if the Aggregate Amount in Row (11) Excludes Certain Shares	[ ]
-----	
(13) Percent of Class Represented by Amount in Row (11)	4.9%*
-----	
(14) Type of Reporting Person	CO

\* Based on 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q, as filed with the Securities and Exchange Commission on November 3, 2005.

(1) Name of Reporting Person I.R.S. Identification No. of Above Person	Triarc Companies, Inc.
-----	
(2) Check the Appropriate Box if a Member of a Group	(a) ----- (b) X
-----	
(3) SEC Use Only	
-----	

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(4) Source of Funds OO

---

(5) Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e) [ ]

---

(6) Citizenship or Place of Organization Delaware

---

Number of Shares Beneficially Owned by Each Reporting Person With	(7) Sole Voting Power	None
	(8) Shared Voting Power	1,198,075
	(9) Sole Dispositive Power	None
	(10) Shared Dispositive Power	1,198,075

---

(11) Aggregate Amount Beneficially Owned by Each Reporting Person 1,198,075

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(12) Check Box if the Aggregate Amount in Row (11) Excludes Certain Shares [ ]

---

(13) Percent of Class Represented by Amount in Row (11) 5.3%\*

---

(14) Type of Reporting Person CO

\* Based on 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q, as filed with the Securities and Exchange Commission on November 3, 2005.

(1) Name of Reporting Person Nelson Peltz  
 I.R.S. Identification No. of Above Person

---

(2) Check the Appropriate Box if a Member of a Group

	(a) _____
	(b) <input checked="" type="checkbox"/> _____

---

(3) SEC Use Only

---

(4) Source of Funds OO

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(5) Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e) [ ]

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(6) Citizenship or Place of Organization United States

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Number of Shares	(7) Sole Voting Power	None
-----		
Beneficially Owned by	(8) Shared Voting Power	2,415,734
Each Reporting Person		
With	(9) Sole Dispositive Power	None
-----		
	(10) Shared Dispositive Power	2,415,734
-----		
(11) Aggregate Amount		
Beneficially Owned by Each		
Reporting Person		2,415,734
-----		
(12) Check Box if the Aggregate Amount in		[ ]
Row (11) Excludes Certain Shares		
-----		
(13) Percent of Class Represented by Amount in		10.7%*
Row (11)		
-----		
(14) Type of Reporting Person		IN

\* Based on 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q, as filed with the Securities and Exchange Commission on November 3, 2005.

(1) Name of Reporting Person	Peter W. May
I.R.S. Identification No. of	
Above Person	
-----	
(2) Check the Appropriate Box	(a)
if a Member of a	
Group	(b) X
-----	
(3) SEC Use Only	
-----	
(4) Source of Funds	OO
-----	
(5) Check Box if Disclosure of Legal	[ ]
Proceedings is	
Required Pursuant to Items	
2(d) or 2(e)	
-----	
(6) Citizenship or Place of	
Organization	United States
-----	

Number of Shares	(7) Sole Voting Power	15,000
-----		
Beneficially Owned by	(8) Shared Voting Power	1,198,075
Each Reporting Person		
With	(9) Sole Dispositive Power	15,000
-----		
	(10) Shared Dispositive Power	1,198,075
-----		
(11) Aggregate Amount		
Beneficially Owned by Each		

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Reporting Person	1,213,075
-----	
(12) Check Box if the Aggregate Amount in Row (11) Excludes Certain Shares	[ ]
-----	
(13) Percent of Class Represented by Amount in Row (11)	5.4%*
-----	
(14) Type of Reporting Person	IN

\* Based on 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q, as filed with the Securities and Exchange Commission on November 3, 2005.

(1) Name of Reporting Person	Neale M. Albert
I.R.S. Identification No. of Above Person	
-----	
(2) Check the Appropriate Box if a Member of a Group	(a) _____ (b) X
-----	
(3) SEC Use Only	
-----	
(4) Source of Funds	00
-----	
(5) Check Box if Disclosure of Legal Proceedings is Required Pursuant to Items 2(d) or 2(e)	[ ]
-----	
(6) Citizenship or Place of Organization	United States

Number of Shares Beneficially Owned by Each Reporting Person With	(7) Sole Voting Power	None
	(8) Shared Voting Power	43,635
	(9) Sole Dispositive Power	None
	(10) Shared Dispositive Power	43,635

(11) Aggregate Amount Beneficially Owned by Each Reporting Person	43,635
-----	
(12) Check Box if the Aggregate Amount in Row (11) Excludes Certain Shares	[ ]
-----	
(13) Percent of Class Represented by Amount in Row (11)	0.2%*
-----	
(14) Type of Reporting Person	IN

\* Based on 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q, as filed with the Securities and Exchange Commission on November 3, 2005.

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Amendment No. 10 to Schedule 13D

This Amendment No. 10 to Schedule 13D amends the Schedule 13D originally filed on March 4, 2002 (the "Original Statement"), as supplemented and amended by Amendment No. 1, dated October 31, 2002, Amendment No. 2, dated September 4, 2003, Amendment No. 3, dated September 29, 2003, Amendment No. 4 dated October 9, 2003, Amendment No. 5 dated October 16, 2003 and Amendment No. 6 dated December 23, 2004, Amendment No. 7 dated January 20, 2005, Amendment No. 8 dated May 12, 2005 and Amendment No. 9 dated June 17, 2005 (the Original Statement, as so amended, the "Schedule 13D"). Unless otherwise indicated, all capitalized terms shall have the same meaning as provided in the Schedule 13D. Except as set forth below, there are no changes to the information set forth in the Schedule 13D.

Item 2. Identity and Background

Schedules I and II are hereby amended and restated as set forth herein and are incorporated herein by reference.

Item 3. Source and Amount of Funds or other Consideration

Item 3 of the Schedule 13D is hereby amended by adding the following:

On January 23, 2006, the Peltz LP pledged 1,174,024 shares of Common Stock to a third party brokerage firm as security for a margin account.

Item 4. Purpose of Transaction

On November 22, 2005 and January 4, 2006, the Peltz Family Foundation made bona fide donations aggregating 2,580 and 13,450 shares, respectively, of Common Stock. On December 22, 2005, the Peltz LP made a bona fide gift of 27,800 shares of Common Stock to the Peltz Family Foundation.

Item 5. Interest in Securities of the Issuer.

Paragraphs (iii), (iv) and (vi) of Part (a)-(b) of Item 5 are amended and restated to read in their entirety as follows:

(iii) As a co-trustee of the Peltz Family Foundation, Mr. Albert shares voting and dispositive power over of the 43,635 shares of Common Stock directly owned by the Peltz Family Foundation. As a result, pursuant to Rule 13d-3 of the Exchange Act, Mr. Albert may be deemed the beneficial owner of 43,635 shares, which constitute approximately 0.2% of the Company's outstanding shares of Common Stock (computed in accordance with Rule 13d-3 of the Exchange Act and on the basis of 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q filed with the Securities and Exchange Commission on November 3, 2005). Mr. Albert disclaims beneficial ownership of such shares;

(iv) On May 9, 2004 Mr. Peltz transferred all of his general partnership interests in the Peltz LP to Claudia Peltz, his wife, as a result of which Mrs. Peltz became the sole general partner of the Peltz LP. Immediately thereafter, Mrs. Peltz contributed all of the general partnership interests in the Peltz LP to a limited liability company of

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which she is the sole member. On January 23, 2006, the Peltz Family Foundation pledged 1,174,924 shares of Common Stock to a third party brokerage firm as security for a margin account. Mr. Peltz may be deemed to beneficially own the 1,174,024 shares of Common Stock directly owned by the Peltz LP. As a co-trustee of the Peltz Family Foundation, Mr. Peltz shares voting and dispositive power over of the 43,635 shares of Common Stock directly owned by the Peltz Family Foundation. As a result of the Voting Agreement, Mr. Peltz and Mr. May may be deemed to beneficially own, in the aggregate, approximately 45.2% of the voting power of the outstanding Class A Common Stock and Class B Common Stock, of Triarc, and thus Mr. Peltz shares voting and dispositive power with Triarc and Mr. May over the 1,198,075 shares of Common Stock beneficially owned by Triarc (see (ii) above). As a result, pursuant to Rule 13d-3 of the Exchange Act, Mr. Peltz may be deemed the indirect beneficial owner of (i) the 1,174,024 shares of Common Stock directly owned by the Peltz LP, (ii) the 43,635 shares of Common Stock directly owned by the Peltz Family Foundation and (iii) the 1,198,075 shares of Common Stock beneficially owned by Triarc, which, in the aggregate, constitute approximately 10.7% of the Company's outstanding shares of Common Stock (computed in accordance with Rule 13d-3 of the Exchange Act and on the basis of 22,572,585 shares of Common Stock outstanding as of October 20, 2005, as reported in the Company's Form 10-Q filed with the Securities and Exchange Commission on November 3, 2005). Mr. Peltz disclaims beneficial ownership of such shares;

(vi) The Peltz Family Foundation is the beneficial owner of 43,635 shares of Common Stock. Mr. and Mrs. Peltz, one of their adult children and Mr. Albert serve as co-trustees of the Peltz Family Foundation. Mr. Peltz and Mr. Albert may be deemed to beneficially own the shares of Common Stock owned by the Peltz Family Foundation. Each of Mr. Peltz and Mr. Albert disclaims beneficial ownership of such shares.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Item 6 of the Schedule 13D is hereby amended by adding the following:

On January 23, 2006, the Peltz LP pledged 1,174,024 shares of Common Stock to a third-party brokerage firm as security for a margin account.

SIGNATURE

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After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement with respect to the undersigned is true, complete and correct.

Date: February 3, 2006

MADISON WEST ASSOCIATES CORP.

By: /s/ STUART I. ROSEN

-----  
Name: Stuart I. Rosen

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Title: Senior Vice President and Secretary

TRIARC COMPANIES, INC.

By: /s/ STUART I. ROSEN

-----  
Name: Stuart I. Rosen  
Title: Senior Vice President and Secretary

/s/ NELSON PELTZ

-----  
Nelson Peltz

/s/ PETER W. MAY

-----  
Peter W. May

/s/ NEALE M. ALBERT

-----  
Neale M. Albert

SCHEDULE I  
DIRECTORS AND EXECUTIVE OFFICERS  
TRIARC COMPANIES, INC.

Set forth below are the names, citizenship, addresses and, to the best knowledge of the Reporting Persons, the beneficial ownership in the securities of the Company of each of the directors and executive officers of Triarc, other than Messrs. Peltz and May who are also Reporting Persons. (1)

Name	Citizenship	Residence or Business Address	Beneficia
Hugh L. Carey	USA	805 Third Avenue New York, NY 10022	
Clive Chajet	USA	575 Madison Avenue, New York, NY 10022	
Joseph A. Levato	USA	280 Park Avenue New York, NY 10017	
Gregory H. Sachs	USA	8700 West Bryn Mawr, 12th Fl. Chicago, IL 60631	
David E. Schwab II	USA	1133 Avenue of the Americas New York, NY 10036	
Raymond S. Troubh	USA	10 Rockefeller Plaza	



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		New York, NY 10020	
Gerald Tsai, Jr.	USA	200 Park Avenue New York, NY 10166	
Jack G. Wasserman	USA	280 Park Avenue New York, NY 10017	
Edward Garden	USA	280 Park Avenue New York, NY 10017	
Russell V. Umphenour, Jr.	USA	5995 Barfield Road Atlanta, GA 30328	
Brian L. Schorr	USA	280 Park Avenue New York, NY 10017	5,00
Francis T. McCarron	USA	280 Park Avenue New York, NY 10017	
Greg Essner	USA	280 Park Avenue New York, NY 10017	
Stuart I. Rosen	USA	280 Park Avenue New York, NY 10017	22
Fred H. Schaefer	USA	280 Park Avenue New York, NY 10017	50
Anne A. Tarbell	USA	280 Park Avenue New York, NY 10017	
Douglas N. Benham	USA	1155 Perimeter Center West Atlanta, Georgia 30338	

- 1) To the best knowledge of the Reporting Persons, except where otherwise noted, each of the directors and executive officers of Triarc listed above (i) funded their purchase of shares of Common Stock reported herein from personal funds; (ii) acquired the shares of Common Stock for investment purposes; (iii) has sole voting and dispositive power over the shares listed on this Schedule I and (iv) has the sole right to receive dividends from, or the proceeds from the sale of the shares listed on this Schedule I.
- 2) Consists of Common Stock.
- 3) The shares reported herein are held by Mr. Schorr's wife, as to which shares Mr. Schorr disclaims beneficial ownership.

SCHEDULE II

DIRECTORS AND EXECUTIVE OFFICERS  
MADISON WEST ASSOCIATES CORP.

Set forth below are the names, citizenship, addresses and, to the best

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knowledge of the Reporting Persons, the beneficial ownership in the securities of the Company of each of the directors and executive officers of Madison West.  
 (1)

Name	Citizenship	Residence or Business Address	Beneficial Own
Edward Garden	USA	280 Park Avenue New York, NY 10017	0
Francis T. McCarron	USA	280 Park Avenue New York, NY 10017	0
Brian L. Schorr	USA	280 Park Avenue New York, NY 10017	5,008
Stuart I. Rosen	USA	280 Park Avenue New York, NY 10017	22,000
Fred H. Schaefer	USA	280 Park Avenue New York, NY 10017	50,000
Anne A. Tarbell	USA	280 Park Avenue New York, NY 10017	0

- 1) To the best knowledge of the Reporting Persons, except where otherwise noted, each of the directors and executive officers of Madison West listed above (i) funded their purchase of shares of Common Stock reported herein from personal funds; (ii) acquired the shares of Common Stock for investment purposes; and (iii) has sole voting and dispositive power over the shares listed on this Schedule II.
- 2) See Schedule I.